REMARKS/ARGUMENTS

The Applicants have carefully considered this application in connection with the Examiner's Final Rejection and respectfully request reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicants originally submitted Claims 1-19 in the application. In the present preliminary amendment, the Applicants have amended Claims 1-2, 6-9, 13-15 and 19. Additionally, the Applicants have added Claim 20. No other claims have been amended, canceled or added. Accordingly, Claims 1-20 are currently pending in the application.

L   Rejection of Claims 1-6, 8-12 and 14-18 under 35 U.S.C. §102

Previously, the Examiner rejected Claims 1-6, 8-12 and 14-18 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,177,861 to MacLellan, *et al*. The Applicants respectfully disagree.

MacLellan discloses a wireless communication system including an Application Processor 101 that communicates over a network 102 to interrogators 103 that communicate to tags 105. (*See* column 2, lines 54-64 and Figure 1.) The system employs a downlink protocol for data transmission from the interrogators 103 to the tags 105 and an uplink protocol for data transmission from the tags 105 to the interrogators 103. Both protocols use a backoff/retry algorithm to randomly retransmit any non-acknowledged messages. (*See* column 2, lines 7-19.)

MacLellan, however, returns no signal based upon an expectation of unavailability of the Application Processor 101. MacLellan, therefore, provides no teaching of returning a LOCKED indicator based upon an expectation of the Application Processor 101 being unavailable.

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Additionally, MacLellan does not teach returning a FREE indicator otherwise based on the expectation of the Application Processor 101. As indicated in Figures 5-6, MacLellan teaches sending acknowledgment signals when data is received. No indicator is provided based on an expectation of unavailability. As such, MacLellan discloses a passive backoff protocol system that resends a message if an acknowledgment is not received. Thus, while MacLellan discloses a backoff protocol system, the backoff protocol system of MacLellan does not teach returning a LOCKED indicator based upon an expectation when a shared resource is unavailable and otherwise returning a FREE indicator as recited in independent Claims 1, 8 and 14.

Specifically addressing independent Claim 8, MacLellan also does not teach the system makes any determination if the Application Processor 101 has an expectation of being unavailable. On the contrary, the system in MacLellan sends an acknowledgment message when data is successfully received and retransmits a message if acknowledgment is not received. (*See* the Abstract, column 2, lines 16-17 and column 5, lines 5-7.) MacLellan, therefore, has no interest in determining an expectation of unavailability of the Application Processor 101 since the system of MacLellan will retransmit a message based on receiving an acknowledgment signal. Thus, MacLellan also does not teach determining if a shared resource has an expectation of being unavailable as recited in amended independent Claim 8.

Since MacLellan does not teach each element of independent Claims 1, 8 and 14, MacLellan does not anticipate independent Claims 1, 8 and 14 and Claims dependent thereon. The Applicants, therefore, respectfully request the Examiner to withdraw the §102 rejection with respect to Claims 1-6, 8-12 and 14-18 and allow issuance thereof.

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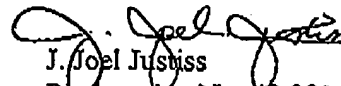## II.   Rejection of Claims 7, 13 and 19 under 35 U.S.C. §103

The Examiner has rejected Claims 7, 13 and 19 under 35 U.S.C. §103(a) as being unpatentable over MacLellan in view of U.S. Patent No. 6,704,873 to Underwood. Claims 7, 13 and 19 have been amended, however, rendering the previous §103(a) rejection of these Claims moot. Accordingly, the Applicants respectfully request the Examiner to withdraw the §103(a) rejection of Claims 7, 13 and 19 and allow issuance thereof.

III.   Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-20.

Respectfully submitted,

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